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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1947

no brief filed on merits

No. 362

FONTAINE LEMAISTRE, PETITIONER,

vs.

HERMAN LEFFERS, ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF FLORIDA

PETITION FOR CERTIORARI FILED SEPTEMBER 22, 1947.

CERTIORARI GRANTED NOVEMBER 10, 1947.

SUPREME COURT OF THE UNITED STATES

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[fol. 1]

IN CIRCUIT COURT, LEE COUNTY, FLORIDA. IN CHANCERY

FONTAINE LEMAISTRE, Plaintiff,

vs.

HERMAN LEFFERS and ESTELLE LEFFERS, his wife, W. H. CONROD and SARA LOUISE CONROD, his wife, and THE SUN OIL COMPANY, a corporation under the laws of the State of New Jersey, Defendants

Bill to Redeem, for Accounting and Injunction

BILL OF COMPLAINT—Filed March 25, 1946

To the Honorable Judges of said Court:

The plaintiff, Fontaine LeMaistre of 2968 St. Johns Avenue, Jacksonville, Florida, by his undersigned attorney, W. B. Shelby Crichlow, brings this, his bill of complaint against Herman Leffers and Estelle Leffers, his wife, W. H. Conrod and Sara Louise Conrod; his wife, each of Lee County, Florida, and the Sun Oil Company, a corporation under the laws of the State of New Jersey, having the principal office in the city of Dallas, Texas, as defendants and thereupon the plaintiff complaining says:

1

This action is brought under the provisions of the amendment of October 6, 1942 to Section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940 which provides as follows:

> "The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department, or other agency of government by or against any person in military service or by or against his heirs, executors, administrators, or assigns, whether such cause of action or the right or privilege to institute such action or proceeding shall have accrued prior to or during the period

of such service, nor shall any part of such period which occurs after the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 (October 6, 1942) be included in computing any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax or assessment."

2

[fol. 2] During the month of May, 1942 the plaintiff, Fontaine LeMaistre was inducted into the United States Naval Reserve and went into active duty at Naval Air Station, Quonset Point, R. I., on the 18th day of August, 1942 and continued in active duty as Lieutenant Commander up to and including the 18th day of December 1945, on which day he was placed on the inactive list of the Navy.

3

That by reason of the existence of said military service of the said plaintiff, as aforesaid, the provisions of the amendment of the preceding act applied to him from the date that the same became effective, to wit; the 6th day of October, 1942, and were self-executing and gave an automatic extension of time for the redemption of any taxes or tax certificates which were then outstanding or delinquent under the laws of the State of Florida against lands of this plaintiff.

4

That on the 5th day of August, 1940, tax certificate #40 was issued in the name of the plaintiff, Fontaine LeMaistre against all of section 18, township 43 south, range 24 east, containing 640 acres, lying and being in Lee County, Florida, for the non-payment of state and county taxes for the year 1939 and on the 29th day of January, 1943, Jennings B. Jones, the holder of said certificate, filed application in the office of the clerk of circuit court for Lee County, Florida, for the issuance of a tax deed based thereon and paid and redeemed all of the taxes on said lands and the cost and expense of said sale and such lands not having been redeemed, the said property, pursuant to published notice of application for tax deed was offered for sale on the 1st day of March, 1943, and sold by said Clerk

of Circuit Court to W. H. Conrod for the sum of $150.00 [fol. 3] and thereupon a tax deed was issued to said W. H. Conrod by D. T. Farabee, Clerk of Circuit Court of Lee County, Florida, dated the 1st day of March, 1943, which said deed was recorded in deed book 148 as page 135 of the public records of Lee County, Florida.

5

That by instrument dated the 1st day of December, 1943 and recorded in Miscellaneous Record of Deeds, Book 21 page 113 of the public records of Lee County, Florida, W. H. Conrod and Sara Louise Conrod, his wife, undertook to execute a lease of the oil and mineral rights in the said lands located in the north half of section six and section 18, township 43 south, range 24 east, to the Sun Oil Company, a New Jersey corporation, defendant herein, for cash consideration of $144.00 and an annual rental of $96.00 per year, giving and granting unto the Lessee, under the terms and conditions set forth, the right and privilege to explore and drill for oil on said lands, which agreement was subsequently modified by instrument recorded in Miscellaneous Deed Book 22 at page 148 of the public records of Lee County, Florida, wherein the Citizens National Bank at Tyler, Texas was named as payee for the lessors to receive the rent and royalties which might arise under the provisions of the said instrument for and in the behalf of the lessors therein named.

6

That by deed dated the 22nd day of April 1944; recorded in deed book 153 at page 262-263 of the public records of Lee County, Florida, W. H. Conrod and Sara Louise Conrod, his wife, undertook to convey by statutory warranty deed, for a consideration therein named of $1500.00 to the defendant Herman Leffers of Lee County, Florida, the following property located in Lee County, Florida, to wit: "Section 18, township 43 south, range 24 east, together with all the oil and mineral rights of said land, subject to the lease of the Sun Oil Company." Said instrument was filed for record on the 2nd day of May, 1944, in Lee County, Florida.

[fol. 4]

7

This plaintiff never, at any time, received any actual notice of application for tax deed, being at the time that the application was made for tax deed, and until the 26th day of February, 1943, in active line of duty, at which time on the 26th day of February, he was extremely seriously injured with multiple injuries sustained in the crash of a navy plane in which he was making flight in the rounds of duty and on the date that the aforesaid sale took place was in Union Memorial Hospital, Baltimore, Maryland, suffering and recuperating from such injuries, at the time that the defendant, W. H. Conrod, was undertaking to speculate through tax deed on the plaintiff's property.

8

That on or about the 15th day of March, 1944, the Clerk of the Circuit Court of Lee County, Florida, as trustee, tendered to this plaintiff his check for $12.07 as the over plus arising from the bid of the said W. H. Conrod of $150.00 for said property, acceptance of which said check was refused by the plaintiff and said check was thereafter returned to said clerk. The said amount of $137.93 being all amounts due under said certificate #40, including all taxes for the years 1939, 1940, 1941 and 1942 together with all costs and expenses provided by statute for issuance of the tax deed on said lands.

9

The Plaintiff prays the court to find and determine that the rights of said W. H. Conrod and Sara Louise Conrod, his wife, and Herman Leffers and Estelle Leffers, his wife, have acquired by said tax deed only an assignment of said tax certificate #40, sale 1940, and other taxes and costs as above stated and have a lien therefor upon section 18, township 43 south, range 24 east, containing 640 acres more or less in Lee County, Florida and said tax deed is subject to [fol. 5] the rights of redemption by this plaintiff by reason of his being in military service at the time that said sale and deed were effected and that the Sun Oil Company has no right, title or interest into said lands by reason of its lease and that its lease is void; that upon the payment by the plaintiff of the amount due under said tax certificate #40 and said tax deed into the Registry of Court, that the

aforesaid deed of conveyance and each of them be decreed paid, cancelled, redeemed and void; and the said plaintiff hereby and herewith tenders and pays into the Registry of said Court the sum of $137.93 with interest thereon at the rate of 6% per annum from and after the first day of March, 1943 to the date of the filing of this complaint being $163.24 in full satisfaction, redemption and discharge of the aforesaid taxes and tax liens and further consents and agrees to repay the defendants for any amounts which they have paid out for taxes levied on or against said property from or since the date of the aforesaid tax deed and the plaintiff prays the court that he may have such other and further general relief in the premises as the court may find proper.

10

The plaintiff further alleges that there is valuable timber located upon said land and prays the court for an injunction restraining the defendants Herman Leffers and Estelle Leffers, his wife, and the Sun Oil Company from trespassing upon said property or in any way interfering with the rights, title or interest of the said plaintiff in or to said land, and that in the event that the said Herman Leffers or the said W. H. Conrod have undertaken to remove any portion of the timber from the said land or to cause said timber to be turpentined, that they be required to account for any money arising from such trespass upon said property and that this plaintiff be awarded damages for all injuries to said timber occasioned by the said defendants, Herman Leffers or W. H. Conrod and their grantees or any of them and that such injunction that is herein prayed for to be both temporary and permanent.

(Signed) W. B. Shelby Crichlow, Attorney for Plaintiff.

[fol. 6] *Duly sworn to by W. B. Shelby Crichlow; jurat omitted in printing.*

[fol. 7] IN CIRCUIT COURT, TWELFTH JUDICIAL CIRCUIT OF FLORIDA, LEE COUNTY, FLORIDA.

[Title omitted]

SUMMONS AND RETURN ON HERMAN LEFFERS, et al.

STATE OF FLORIDA

The State of Florida to Herman Leffers and Estelle Leffers, his wife, and W. H. Conrod and Sara Louise Conrod, his wife, Greetings:

You are hereby notified, that a suit has been brought against you in the Circuit Court for Lee County, Florida, in Chancery, by Fontaine LeMaistre (Bill for Accounting, to Redeem and Injunction) and you are hereby required to file with the Clerk of said Court your written appearance (personally or by attorney) in said suit on the first Monday in May A. D. 1946 being the 6th day of said month, and thereafter to file with said Clerk your written defenses, if any, to the bill of complaint in said suit at the time prescribed by law.

Herein fail not or judgment will be entered against you by default.

Witness my hand and seal of said Court, at Fort Myers, Florida, this 25th day of March, A. D., 1946.

(Signed) D. T. Farabee, Clerk of said Circuit Court.
By A. N. Odom, Deputy Clerk. (Seal)

Sheriff's Return

Came to hand this 25th day of March, 1946 and executed same in Lee County, Florida by delivering a true copy of this summons in chancery to the within named defendants, Herman Leffers, W. H. Conrod, Sara Louise Conrod. With the words "Copy of Summons in Chancery" written thereon, together with the name of complainant's solicitor, and at the same time exhibiting the original of such summons to such defendants.

This 26th day of March 1946.

Floyd Ellis, Sheriff, Lee County, Florida. By (signed) Bryant Baker, Deputy Sheriff.

[fol. 8] IN CIRCUIT COURT, LEE COUNTY, FLORIDA, IN CHANCERY

[Title omitted]

LIS PENDENS—March 25, 1946

To whom it may concern, take notice:

That an action has been filed by the above named plaintiff, Fontaine LeMaistre against the above named defendants, Herman Leffers and Estelle Leffers, his wife, W. H. Conrod and Sara Louise Conrod, his wife, and the Sun Oil Company, a corporation under the laws of the State of New Jersey, in the Circuit Court of Lee County, Florida, In Chancery, for the purpose of redeeming the title and taxes paid on section 18, township 43 south, range 24 east, containing 640 acres more or less, lying and being in Lee County, Florida, under the provisions of the statute of the State of Florida and of the United States and ask the court to cancel all conveyances affecting said title by the defendants from and since the 1st day of March, 1943 and for an accounting and injunction against further trespassing upon the property of the plaintiff.

(signed) W. B. Shelby Crichlow, Attorney for Plaintiff.

[fol. 9] IN CIRCUIT COURT, LEE COUNTY, FLORIDA. IN CHANCERY

[Title omitted]

RECEIPT FOR DEPOSIT OF $163.24 IN THE REGISTRY OF COURT BY THE ABOVE PLAINTIFF—Filed March 25, 1946

STATE OF FLORIDA,
County of Lee:

I, D. T. Farabee, as Clerk of Circuit Court for Lee County, Florida, in chancery, do hereby certify and acknowledge that there has been paid into the Registry of this court, in the above entitled cause, as is recited and referred to in paragraph 9 of the Bill of Complaint, the sum of $163.24 by the above plaintiff, Fontaine LeMaistre.

In Testimony Whereof, I have hereunto set my hand and seal this 25 day of March, 1946.

(Signed.) D. T. Farabee, Clerk of Circuit Court, Lee County, Florida. In Chancery. (Seal.)

[fol. 10] In Circuit Court, Lee County, Florida. In Chancery

[Title omitted]

Notice of Hearing—Filed March 25, 1946

To the Defendants; Herman Leffers and Estell Leffers, his wife, W. H. Conrod and Sara Louise Conrod, his wife, and the Sun Oil Company, a corporation under the laws of the State of New Jersey, Take Notice:

That a Bill of Complaint has been filed against you and each of you in the above entitled case, in the Circuit Court of Lee County, for the redemption of Section 18, Township 43 South, Range 24 East, Lee County, Florida for tax liens evidenced by tax deed to W. H. Conrod and later deeded to Herman Leffers, with oil lease to the Sun Oil Company, which said deeds merely amount to an assignment of the tax lien against said property on account of the military service of the owner, in the United States Armed Forces at the time that said tax deed was issued, and also, prayer for accounting and injunction against trespassing upon the aforesaid land.

Notice is hereby given that I shall apply for a temporary injunction before the Honorable George W. Whitehurst, one of the judges of said circuit, in chambers at courthouse, Sarasota, Florida, on Friday, March 29th, 1946 at 10:30 A. M. You are hereby requested to be present if so desired.

(Signed) W. B. Shelby Crichlow, Attorney for Plaintiff.

[fol. 11] AFFIDAVIT

STATE OF FLORIDA,
County of Manatee:

I hereby certify that I did, on the 23rd day of March, 1946, mail a full, true and complete copy of the above and foregoing notice to each of the above named defendants, being deposited in the receptacle provided for the receipt of outgoing mail in the United States Post Office at Bradenton, Florida, each letter being securely sealed and having full letter postage, prepaid. Respective envelopes were addressed as follows:

1. Mr. and Mrs. Herman Leffers, Fort Myers, Fla.
2. Mr. and Mrs. W. H. Conrod, Alva, Florida.
3. Sun Oil Company, Fort Myers, Florida.

(Signed) Ruth A. Murray.

Sworn and subscribed to before me this 23rd day of March, 1946. (Signed) Clara B. Balis, Notary Public, State of Florida at Large. My commission expires August 15, 1947. Bonded by American Surety Co. of N. Y. (N. P. seal affixed.)

[fol. 12] IN CIRCUIT COURT, LEE COUNTY, FLORIDA. IN CHANCERY

[Title omitted]

ORDER OF INJUNCTION—Filed March 30, 1946

This cause coming on to be heard before me this day on application for temporary and permanent injunction as prayed for in and by the bill of complaint on file herein and the court having examined the records in said cause, finds that due notice of the application for this injunction has been given to the defendants Herman Leffers and Estelle Leffers, his wife, W. H. Conrod and Sara Louise Conrod, his wife but that the Sun Oil Company, a corporation under the laws of the State of New Jersey has not yet been served; that the plaintiff has deposited in the Registry of this Court, a sum of money sufficient to redeem and pay the tax certificate and cost of application for tax deed, as of March 1st, 1943, being the sum of $137.93 and has also deposited interest thereon from and since the 1st day of March, 1943

to the first day of April, 1946, being the total amount of $164.24, as is recited in and by the paragraph #8 of the complainant's bill of complaint. Receipt for which appears in the files of this cause by the Clerk of Circuit Court of Lee County, Florida and that the original check of $12.07 drawn by the Clerk of said court to the order of the plaintiff, [fol. 13] has been returned to said Clerk. The plaintiff further having produced proof to the satisfaction of this court that he was in the military service of the United States being in the United States Naval Service, from and after the 24th day of July, 1942 continuously to and including the 18th day of December, 1945, upon which day he was placed upon the inactive list but prior to which time he was engaged in active service of the United States Naval Forces, having served one year 7 months and 13 days in foreign and or sea service during said period; and further having produced evidence of the ownership of the land hereinafter described from and after the 23rd day of May, 1923 and that he is entitled to redeem said property from the tax sale and tax deed in said bill of complaint, after and pending final hearing on bill of complaint, asks for a restraining order against the defendants Herman Leffers and Estelle Leffers, his wife, W. H. Conrod and Sara Louise Conrod, his wife, from trespassing upon or in any was interfering with the rights, title or interest of said plaintiff in said land.

Upon filing sufficient bond in the sum of $100,

It is Thereupon Ordered, Adjudged and Decreed that the said defendants Herman Leffers and Estelle Leffers, his wife, W. H. Conrod and Sara Louise Conrod, his wife are forever temporarily enjoined from any trespassing upon said property or any use or occupancy of the same; that they are specifically enjoined from any use of said property for pasturage or other purposes and that they are enjoined from cutting or removing any timber or turpentining any timber or permitting any one to turpentine or remove any timber from said lands or any license which they have issued herefore or contract which they may have made relative thereto, which may hereafter be attempted to be performed are temporarily therefrom enjoined until further order of Court.

Decreed and ordered in chambers in Sarasota, Florida, this the 29th day of March, 1946.

(Signed) Geo. W. Whitehurst, Judge.

[fol. 14] IN CIRCUIT COURT OF LEE COUNTY

SUMMONS AND RETURN ON SUN OIL COMPANY

STATE OF FLORIDA

The State of Florida to the Sun Oil Company, a corporation under the laws of the State of New Jersey:

You are hereby notified, that a suit has been brought against you in the Circuit Court for Lee County, Florida, in Chancery, by Fontaine LeMaistre and you are hereby required to file with the Clerk of said Court your written appearance (personally or by attorney) in said suit on the first Monday in May, A. D., 1946, being the 6th day of said month, and thereafter to file with said Clerk your written defenses, if any, to the bill of complaint in said suit at the time prescribed by law.

Herein fail not or judgment will be entered against you by default.

Witness my hand and seal of said Court, at Fort Myers, Florida, this 6th day of April, A. D. 1946.

D. T. Farabee, Clerk of said Circuit Court, by (Signed) A. N. Odom, Deputy Clerk. (Seal.)

On the 30th day of April, 1946, summons in chancery issued on the 6th day of April, 1946, was filed in this cause with the endorsement of the service by Sheriff in words and figures following:

No. 3530

ORIGINAL RETURN

Received this Writ on April 17, A. D., 1946 and executed same in Duval County, Florida, on April 20, A. D., 1946, by delivering a true copy thereof to, C. D. Rogers, as Assistant Secretary of the Corporation Company, as Resident Agent for the within named defendant, the Sun Oil Com-
[fol. 15] pany, a corporation under the laws of the State of New Jersey, in the absence from Duval County, Florida of the President, Vice-President, and other heads, Cashier, Treasurer, Secretary, General Manager, or any Director of the within named defendant or of the said Resident Agent, the corporation company upon which copy was endorsed the

name of the Court from which the original summons in chancery was issued. The title of the cause the words "Copy of Summons" and the name of the complainants solicitor, and at the same time reading this original and explaining the contents thereof.

Writ $2.60
2 mi. .25

2.85 HWM

Rex Sweat, Sheriff of Duval County, Florida.
By (signed) Harry W. Moore, Deputy Sheriff.

[fol. 16] In the Circuit Court, Lee County, Florida

In Chancery.

(Title Omitted)

Appearance for Sun Oil Co.—Filed May 4, 1946

The Clerk of said Court will please enter the appearance of Sun Oil Company, a corporation, one of the defendants named in the above styled case, as of the Rule Day of May, 1946, and oblige.

(signed) Osmond Bie, Attorney for the defendant, Sun Oil Company.
Osmond Bie, P. O. Box 186, Tallahassee, Florida.

[fol. 17] In Circuit Court, Lee County, Florida

In Chancery

(Title Omitted)

Praecipe for Decree Pro Confesso. Filed May 6, 1946.

The clerk of said court will please enter a Decree Pro Confesso against each of the following defendants in the above entitled cause for their failure to appear or plead to

the bill of complaint on file in this cause on the rule day of May, 1946, to wit:—

Herman Leffers and Estelle Leffers, his wife,
W. H. Conrod and Sara Louise Conrod, his wife, and
The Sun Oil Company, a corporation under the laws of the State of New Jersey.

(signed) W. B. Shelby Crichlow, Attorney for Plaintiff.

[fol. 18] IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT IN AND FOR LEE COUNTY, FLORIDA—IN CHANCERY

FONTAINE LEMAISTRE, Plaintiff,

vs.

HERMAN LEFFERS, et als., Defendants
May 7th next day after Rule Day, 1946.

DECREE PRO CONFESSO AGAINST HERMAN LEFFERS, et al.—Filed May 7, 1946.

And now on this day comes the Complainant by his Solicitor, W. B. Shelby Chrichlow, Esq., and ask — that a Decree Pro Confesso be entered against the Defendants Herman Leffers, W. H. Conrod and Sara Louise Conrod for want of appearance, plea, answer or other pleadings herein and the Sheriff having made the following return upon Summons in Chancery issued herein, to-wit:—

"Came to hand this 25th day of March, 1946 and executed same in Lee County, Florida, by delivering a true copy of this summons in chancery to the within named defendants, Herman Leffers, W. H. Conrod and Sara Louise Conrod, with the words "Copy of Summons in Chancery" written thereon, together with the name of complainant's solicitor, and at the same time exhibiting the original of such summons to such defendants. This 26th day of March, 1946. Floyd Ellis, Sheriff, Lee County, Florida, By Bryant Baker, Deputy Sheriff", and the Defendants having failed to appear, plead, answer or file other pleadings herein to the Complainant Bill herein filed; therefore it is ordered that the said Bill be taken as confessed by said Defendants and that the Complainant have leave to proceed Ex-Parte., as to the

defendants Herman Leffers, W. H. Conrod and Sara Louise Conrod.

Witness my hand this 7th day of May, A. D. 1946.

D. T. Farabee, Clerk, by A. N. Odom, D. C.

[fol. 19] Clerk's Certificate to foregoing paper omitted in printing.

[fol. 20] In Circuit Court, Lee County, Florida, in Chancery

[Title omitted]

Praecipe for Decree Pro Confesso Against Sun Oil Co.—Filed June 3, 1946

The clerk of said court will please enter a decree pro confesso against the Sun Oil Company, a corporation, a defendant in the above entitled cause, on the rule day in June, 1946, for failure to plead to the plaintiff's bill of complaint on file in said cause.

(signed) W. B. Shelby Crichlow, Attorney for Plaintiff.

[fol. 21] In the Circuit Court, Lee County, Florida, in Chancery

No. 8382

[Title omitted]

Motion of Sun Oil Co. to Make More Particular—Filed June 3, 1946

Comes now the defendant, Sun Oil Company, by its attorney undersigned, and avers unto the Court that the allegation in the bill of complaint filed herein in reference to the time when the period of military service of the plaintiff began and ended is not stated with any degree of clearness and certainty, and could be better shown by an instrument in writing, to wit, plaintiff's discharge and report of separation from the U. S. Navy.

Wherefore, this defendant moves the Court to require plaintiff to attach as an exhibit to the bill of complaint, his discharge and report of separation from the U. S. Navy, or a true and exact copy thereof.

(Signed) Osmond Bie, Attorney for said defendant.

[fol. 22] IN THE CIRCUIT COURT, LEE COUNTY, FLORIDA, IN CHANCERY

[Title omitted]

MOTION OF SUN OIL CO. TO DISMISS—Filed June 3, 1946

Comes now Sun Oil Company, a corporation, by its attorney undersigned, and moves to dismiss the bill of complaint filed in the above styled case, because:

1. The bill of complaint fails to allege that the land described therein as having been sold for unpaid delinquent taxes, was real property owned and occupied for dwelling, professional, business or agricultural purposes by the plaintiff, or his dependents, at the commencement of his period of military service, and still so occupied by his dependents or employees at the time of the alleged sale.

2. It affirmatively appears from the allegations of the bill of complaint that title to the land in question, together with the right to sell and convey same, had matured in the State of Florida prior to October 6, 1942.

3. It affirmatively appears from the allegations of the bill of complaint that the plaintiff lost his right to redeem, if any he had, during the period of time when he was not in the military service of the United States.

4. The plaintiff has failed to allege that his military service materially affected his financial ability to pay the taxes on the land involved in suit, which became delinquent prior to his period of military service, or interfered with his duty and obligation to pay same.

5. The bill of complaint shows on its face that the plaintiff is guilty of laches in filing this suit.

(Signed) Osmond Bie, Attorney for said defendant.

[fol. 23] IN CIRCUIT COURT, LEE COUNTY, FLORIDA, IN CHANCERY

[Title omitted]

AMENDMENTS TO ORIGINAL BILL OF COMPLAINT—Filed June 15, 1946

To the Honorable Judges of said Court:

Comes now the above named plaintiff Fontaine LeMaistre, and makes the following amendments to his bill of complaint in said cause:

1. The plaintiff, Fontaine LeMaistre of 2968 St. Johns Avenue, Jacksonville, Florida, by his undersigned attorney, W. B. Shelby Crichlow, brings this, his bill of complaint against Herman Leffers and Estelle Leffers, his wife, W. H. Conrod and Sara Louise Conrod, his wife, each of Lee County, Florida, and the Sun Oil Company, a corporation under the laws of the State of New Jersey, having its principal office in the city of Dallas, Texas, D. T. Farabee, clerk circuit court, Lee County, Florida, and Real Estate Exchange, Inc., a corporation under the laws of the State of Florida, having its principal office located in Fort Myers, Florida, as defendants and thereupon the Plaintiff complaining says:

2. Amend section No. 6 of said bill by amending section 6 of said original bill as follows:

"That by deed dated 12th day of October, 1945, the said Herman Leffers undertook to deed the aobve described property, being section 18, township 43, south, range 24, east, to the Real Estate Exchange, Inc., a corporation under the laws of the State of Florida, defendant herein named; said deed being filed for record on the 12th day of October, 1945, and recorded in Deed Book 166, page 488 of the public [fol. 24] records of Lee County, Florida; that said deed from said Herman Leffers to the said Real Estate Exchange, Inc., a corporation, amounted only to an assignment of tax certificate No. 40, sale of 1940, of the above described land, section 18, township 43, south, range 24, east, together with the subsequent taxes paid by the defendant named in section 8 of said original bill of complaint.

3. Complainant further amends the 9th section of the original bill of complaint as follows:

"Whereas the complainant has paid into court the amount necessary to redeem tax certificate No. 40, sale of 1940, above referred to into the registry of this court, and has offered to pay the same to the clerk of the circuit court in full cancellation, discharge and redemption of said tax certificates, that said plaintiff further agrees to pay any further amounts which may be required by the court necessary to redeem the aforesaid tax certificates and subsequent taxes paid by any of the defendants herein, or as may be ascertained by the clerk of the court in and for Lee County, Florida, in the manner and form required by the owner of land under the statutes to redeem tax certificates held by an individual; and the complainant further prays the court to find that the successive conveyances above made amount only to an assignment of said tax certificates, together with the amount of subsequent taxes due and unpaid on the property, together with interest thereon as provided by statute. That in the event the amount of money which has been paid into court by this complainant for the discharge and payment of said tax lien is insufficient, this complainant stands ready, willing and able to pay such other additional amounts as the court may find due under the statute for the redemption of said tax certificate and subsequent taxes."

(Signed) W. B. Shelby Crichlow, Attorney for plaintiff.

[fol. 25] In Circuit Court, Lee County, Florida, In Chancery

[Title omitted]

Amendment To Lis Pendens—Filed June 15, 1946

Comes now the plaintiff in the above named cause and amends the original lis pendens filed herein by adding thereto the following named defendants, to-wit: D. T. Farabee, clerk circuit court, Lee County, Florida, and Real Estate Exchange, Inc., a corporation under the laws of the

State of Florida, and makes this amendment a part of the original lis pendens filed in this case.

(Signed) W. B. Shelby Crichlow, Attorney for *Defendant*. (Seal)

[fol. 26] In Circuit Court, Lee County, Florida, in Chancery

[Title omitted]

Amendment to Lis Pendens Heretofore Filed—Filed June 21, 1946

Comes now the plaintiff in the above named cause and amends the original lis pendens filed herein by adding thereto the following named defendants, to-wit: D. T. Farabee, clerk circuit court, Lee County, Florida, and Real Estate Exchange, Inc., a corporation under the laws of the State of Florida, and makes this amendment a part of the original lis pendens filed in this case.

(Signed) W. B. Shelby Crichlow, Attorney for the Plaintiff. (Seal.)

[fol. 27] In Circuit Court, Lee County, Florida. In Chancery

[Title omitted]

Praecipe for Summons to D. T. Farabee, et al.—Filed June 15, 1946

The Clerk of the said court will please issue its subpoenae, returnable as required by law, to the following defendants only: D. T. Farabee as clerk of circuit court for Lee County, Florida, and to the Real Estate Exchange, Inc., a corporation under the laws of the State of Florida, having its office located in Fort Myers, Florida, and deliver the same to the sheriff for service.

(Signed) W. B. Shelby Crichlow, Attorney for Complainant.

[fol. 28] IN CIRCUIT COURT, TWELFTH JUDICIAL CIRCUIT OF FLORIDA, LEE COUNTY, FLORIDA

[Title omitted]

SUMMONS AND RETURN ON D. T. FARABEE, ET AL.—Filed July 1, 1946

State of Florida

The State of Florida, To:

D. T. Farabee, as Clerk of the Circuit Court, Lee County, Florida, and Real Estate Exchange, Inc., a corporation under the laws of the State of Florida, Greetings:

You are hereby notified, that a suit has been brought against you in the Circuit Court for Lee County, Florida, in Chancery, by Fontaine LeMaistre, and you are hereby required to file with the Clerk of said Court your written appearance (personally or by attorney) in said suit on the first Monday in July A. D., 1946, being the 1st day of said month, and thereafter to file with said Clerk your written defenses, if any, to the bill of complaint in said suit at the time prescribed by law.

Herein fail not or judgment will be entered against you by default.

Witness my hand and seal of said Court, at Fort Myers, Florida, this 15th day of June, A. D. 1946.

D. T. Farabee, Clerk of said Circuit Court, by (Signed) A. N. Odom, Deputy Clerk. (Seal.)

Sheriff's Return

Came to hand this 15th day of June, 1946, and executed same in Lee County, Florida by delivering a true copy of this sunimons in chancery to the within named defendants, D. T. Farabee, as Clerk of the Circuit Court, and T. H. [fol. 29] Phillips, as President of Real Estate Exchange, Inc., a Corp. with the words "Copy of Summons in Chancery" written thereon, together with the name of complainant's solicitor, and at the same time exhibiting the original of such summons to such defendant.

This 17th day of June, 1946.

Floyd Ellis, Sheriff, Lee County, Florida, by (Signed) Bryant Baker, Deputy Sheriff.

Sheriff's Cost:

To Service	$4.00
To (2) Copy	.70
To Return	.25
To 4 Miles Traveled	.50
Total	$5.45

[fol. 30] In Circuit Court, Lee County, Florida. In Chancery

[Title omitted]

Notice to Herman Leffers, et al., of Amendment to Bill of Complaint—Filed June 21, 1946

To the defendants, Herman Leffers, W. H. Conrod and Sara Louise Conrod, his wife, take notice:

That on the 15th day of June, 1946 I filed an amendment to the original bill of complaint in the above entitled cause adding thereto D. T. Farabee as Clerk of the Circuit Court in and for Lee County, Florida, and Real Estate Exchange, Inc., a corporation under the laws of the State of Florida, having its principal office in Fort Myers, Florida, as defendants, and otherwise amending said bill of complaint as per copy of said amendments herewith enclosed and made a part hereof.

You will please take notice of the above and foregoing amendments and make such reply thereto as you may be advised is material on or by the rule day in July, 1946. Otherwise, a decree pro confesso will be entered against you and each of you.

(Signed) W. B. Shelby Crichlow, Attorney for the Plaintiff.

[fol. 31] AFFIDAVIT

STATE OF FLORIDA,
County of Manatee:

I, Harriett Weimer, do hereby certify that I did, on the 20th day of June, 1946, deposit in the United States Post Office at Bradenton, Florida, in the receptacle provided therefor by the Post Office Department of the United States, a full, true and correct copy of the amendment therein referred to, to each and every, severally, of the following parties at their respective addresses as shown below, a copy of the Notice and copy of the amendment being in each separate envelope with full letter postage prepaid, and addressed as follows, respectively:

Herman Leffers, Fort Myers, Florida.
W. H. Conrod, Alva, Florida.
Sara Louise Conrod, Alva, Florida.

(Signed) Harriett Weimer.

Sworn to and subscribed before me this 20th day of June, 1946. (Signed) Clara B. Balis, Notary Public, State of Florida at Large. My Commission expires August 15, 1947. Bonded by American Surety Co. of N. Y. (Notary Seal.)

[fol. 32] IN THE CIRCUIT COURT, IN AND FOR LEE COUNTY, FLORIDA, TWELFTH JUDICIAL COURT

[Title omitted]

ANSWER OF D. T. FARABEE—Filed June 26, 1946

Now come the Defendant, D. T. Farabee, Clerk Circuit Court, Lee County, Florida, for answer to bill of Complaint, and says that he has no interest in the controversy, and asks the court to dismiss this defendant as an improper party.

(Signed) D. T. Farabee, Defendant.

[fol. 33] IN CIRCUIT COURT, LEE COUNTY, FLORIDA. IN CHANCERY

[Title omitted]

NOTICE TO HERMAN LEFFERS, ET AL., OF AMENDMENT TO BILL OF COMPLAINT—Filed July 1, 1946

To the defendants, Herman Leffers, W. H. Conrod and Sara Louis Conrod, his wife, take notice:

That on the 15th day of June, 1946 I filed an amendment to the original bill of complaint in the above entitled cause adding thereto D. T. Farabee as Clerk of the Circuit Court in and for Lee County, Florida, and Real Estate Exchange, Inc, a corporation under the laws of the State of Florida, having its principal office in Fort Myers, Florida, as defendants, and otherwise amending said bill of complaint as per copy of said amendments herewith enclosed and made a part hereof.

You will please take notice of the above and foregoing amendments and make such reply thereto as you may be advised is material on or by the rule day in July, 1946. Otherwise, a decree pro confesso will be entered against you and each of you.

(Signed) W. B. Shelby Crichlow, Attorney for the Plaintiff.

(Copy of the Amendments to the original Bill of Complaint were attached to the aforesaid notice.)

[fol. 34] IN CIRCUIT COURT, LEE COUNTY, FLORIDA. IN CHANCERY

FONTAINE LEMAISTRE, Plaintiff,

vs.

HERMAN LEFFERS, et als., Defendants

Bill to Redeem, for Accounting and Injunction

AFFIDAVIT

I, Harriett Weimer, do hereby certify that I did, on the 22nd day of June, 1946, register at the United States Post Office, Bradenton, Florida, a full, true and correct copy

of the amendment therein referred to, to each and every, severally, of the following parties at their respective addresses as shown below, a copy of the Notice and copy of the amendment being in each separate envelope with full letter postage plus registry fee prepaid, and addressed as follows, respectively:

W. H. Conrod, Alva, Florida.
Sara Louise Conrod, Alva, Florida.

Return registered receipts therefor by the addresses have been received by me.

(Signed) Harriett Weimer.

Sworn and subscribed before me this 28th day of June, 1946. (Signed) Clara B. Balis, Notary Public, State of Florida at Large. My commission expires August 15, 1947. Bonded by American Surety Co. of N. Y. (Notarial Seal.)

[fol. 35] In Circuit Court, Lee County, Florida. In Chancery

[Title omitted]

Plaintiff's Notice of Hearing of Motion to Dismiss—July 1, 1946

Comes now the plaintiff in the above entitled cause and sets down for hearing upon due notice to respective parties, plaintiff and defendants, at date to be fixed by Honorable George W. Whitehurst, one of the Judges of said Court, a motion of the Sun Oil Coompany, a defendant, to dismiss.

(Signed) W. B. Shelby Crichlow, Attorney for Plaintiff.

[fol. 36] In Circuit Court, Lee County, Florida. In Chancery

[Title omitted]

Plaintiff's Notice of Hearing on Motion to Make More Particular—Filed July 1, 1946

Comes now the plaintiff in the above entitled cause and sets down for hearing upon due notice to respective parties, plaintiff and defendants, at date to be fixed by Honorable George W. Whitehurst, one of the Judges of said Court, a motion of the Sun Oil Company, a defendant, to make more particular.

(Signed) W. B. Shelby Crichlow, Attorney for Plaintiff.

[fol. 37] In Circuit Court, Lee County, Florida. In Chancery

[Title omitted]

Praecipe for Decree Pro Confesso Against Herman Leffers, et al.—Filed July 1, 1946

The Clerk of said Court will please enter a decree pro confesso against Herman Leffers, W. H. Conrod and Sara Louise Conrod, defendants in the above entitled cause, for their failure to plead to the bill of complaint as amended filed in the above stated cause.

(Signed) W. B. Shelby Crichlow, Attorney for Plaintiff.

[fol. 38] IN CIRCUIT COURT, LEE COUNTY, FLORIDA. IN CHANCERY

[Title omitted]

PRAECIPE FOR DECREE PRO CONFESSO AGAINST D. T. FARABEE, ET AL.—Filed July 1, 1946

The Clerk of said Court will please enter a decree pro confesso against the following named defendants in the above entitled cause for their failure to enter appearance in said cause on the rule day in July, 1946, as follows:

1. D. T. Farabee, as Clerk of the Circuit Court for Lee County, Florida.

2. Real Estate Exchange, Inc., a corporation under the laws of the State of Florida.

(Signed) W. B. Shelby Crichlow, Attorney for Plaintiff.

[fol. 39] IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA IN AND FOR LEE COUNTY. IN CHANCERY.

[Title omitted]

APPEARANCE OF REAL ESTATE EXCHANGE, INC.—Filed July 1, 1946

The Clerk of the above styled Court will please enter the Appearance of Real Estate Exchange, Inc., a corporation, on the Rule Day in July, 1946, to wit: July 1, 1946, and oblige.

Henderson, Franklin, Starnes & Holt, by (Signed) F. E. Starnes, as Attorneys for Real Estate Exchange, Inc. F. E. Starnes of Counsel.

[fol. 40] IN CIRCUIT COURT, LEE COUNTY, FLORIDA. IN CHANCERY

[Title omitted]

STIPULATION RE MOTIONS—Filed July 22, 1946

It is stipulated and agreed by and between the undersigned solicitors of record for Fontaine LeMaistre, Plaintiff, and Sun Oil Company, Defendant, that the motion to dismiss and the motion for better particulars, filed in the above styled case on behalf of the defendant, Sun Oil Company, directed to the original Bill of Complaint may be considered by the Court as directed to the Bill of Complaint as Amended without additional pleadings to the Bill of Complaint as Amended until the further order of the Court.

This 12th day of July, A. D. 1946.

(Signed) W. B. Shelby. Crichlow, Attorney for Plaintiff; Osmond Bie, Attorney for Defendant, Sun Oil Company.

[fol. 41] IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA IN AND FOR LEE COUNTY. IN CHANCERY.

[Title omitted]

MOTION OF REAL ESTATE EXCHANGE, INC., TO DISMISS BILL OF COMPLAINT—Filed July 26, 1946

Comes now Real Estate Exchange, Inc., a corporation under the laws of the State of Florida, one of the Defendants herein pursuant to the Amendment filed by Plaintiff on June 15, 1946, and moves the Court to dismiss the Bill of Complaint herein, said Motion being based upon the following grounds severally, to-wit:

1. Said Bill of Complaint contains no equity.

2. It does not appear from the Bill of Complaint that Plaintiff is the owner of, or has any interest in, the lands described in the Bill of Complaint.

3. It does not appear from said Bill of Complaint what interest of Plaintiff, if any, is in and to the lands described in the Bill of Complaint.

4. It does not appear from the Bill of Complaint that the lands described in the Bill of Complaint are of the type referred to in the Soldiers and Sailors Civil Relief Act of 1940.

[fol. 42] 5. No facts are alleged as to the type of the lands described in the Bill of Complaint, nor the use made of said lands.

6. Pursuant to provisions of the Acts of Congress for the protection of the rights of Soldiers and Sailors during time of military or naval service, only lands used as a residence, for business or agricultural purposes are protected from sale for non-payment of taxes, and it does not appear that the lands described in the Bill of Complaint come within the type of lands protected by such Acts of Congress.

Henderson, Franklin, Starnes & Holt, by (signed) J. A. Franklin, Solicitors for Real Estate Exchange, Inc., a corporation. J. A. Franklin of Counsel.

[fol. 43] In Circuit Court, Lee County, Florida. In Chancery

[Title omitted]

Amendments to Bill of Complaint—Filed November 1, 1946

Comes now the plaintiff in the above entitled cause and amends his bill of complaint filed herein on the 25th day of March, 1946, as follows:

First Amendment. Although the ownership of the plaintiff of the lands sought to be redeemed is specifically alleged in the concluding words of section numbered "8" of said bill of complaint, for reason of greater certainty of the allegation of ownership, section numbered "4" of said bill of complaint is amended *by striking from the second sentence of said section numbered "4"* the words,

"in the name of the plaintiff, Fontaine LeMaistre" and by adding a new paragraph at the end of said section numbered "4" as follows:

"The assessment of said property as shown on the face of said tax certificate was in the name of Fontaine Le-

Maistre as owner thereof. That said property was at the time and has since been owned by the said plaintiff in fee simple from and since the 15th day of February, 1923, as appears by deed to him filed for record May 23, 1923, and recorded in Deed Book 65 on page 527 of the public records of Lee County, Florida.

[fol. 44] "A certified copy of the aforesaid tax deed, recorded in Deed Book 148 at page 135, public records of Lee County, Florida, is hereto attached marked Exhibit A and made a part of this amended bill of complaint."

(Signed) W. B. Shelby Crichlow, Attorney for Plaintiff.

[fol. 45] EXHIBIT "A" TO AMENDMENT

Tax Deed

(Senate Bill No. 163)

STATE OF FLORIDA,
County of Lee:

Know All Men By These Presents: That whereas, Tax Certificates No. 19 & No. 20, issued the 5th day of August, 1940 were duly filed in the office of the Clerk of the Circuit Court of this county and application made for the issuance of a tax deed based thereon; and the applicant having paid or redeemed all other taxes on the lands hereinafter described required by law to be paid or redeemed, and the costs and expenses of this sale; and due notice of sale having been published as required by law, and no person entitled so to do having appeared to redeem said land, such land was on the 1st day of March, 1943, offered for sale at the Courthouse door for cash to the highest bidder, and was then and there struck off and sold to W. H. Conrod, he being the highest bidder for the same and having paid the sum of his bid;

Therefore, the State of Florida, in consideration of the premises, and in consideration of the sum of ($55.00) Fifty-five & no/100 dollars and the sum of ($150.00) One Hundred Fifty & No/100 dollars, respectively, being the amount paid upon the said tax certificate and for costs and charges, and

in pursuance of the statute in such cases made and provided, has given, granted, bargained and sold, and does hereby give, grant, bargain and sell, convey to the said W. H. Conrod and to his heirs and assigns forever, to their own proper use, benefit and behoof the following land situated in the county and state aforesaid, and described as follows:

N½ Sec. 6 T. 43 S. R. 24 E and All Sec. 18 T. 43 S. R. 24 E, respectively

Containing 900 acres, more or less, provided, however, that said land shall continue subject and liable for any unpaid taxes thereon.

[fol. 46] In Testimony Whereof, by virtue of authority in me vested by law, and for and on behalf of the State of Florida, I, the undersigned, as Clerk of the Circuit Court for the County and State aforesaid, have executed this deed and have thereunto set my official signature and seal, at Fort Myers, in the county of Lee, and State of Florida, this the 1st day of March, A. D. 1943.

(Signed) D. T. Farabee, Clerk of Circuit Court Lee County, Florida. (Seal.)

Signed, sealed and delivered in the presence of: A. N. Odom, Eula Hussey. (Seal affixed.)

STATE OF FLORIDA,
County of Lee:

On this 1st day of March, A. D. 1943, before me a Notary Public personally appeared D. T. Farabee Clerk of the Circuit Court in and for the State and County aforesaid, to me known to be the person described in, and who executed the foregoing instrument, and acknowledged the execution thereof to be his own free act and deed for the use and purposes therein mentioned.

Witness my hand and official seal the date aforesaid.

A. J. Kay, Notary Public State of Florida at large. My Commission expires April 28, 1944. (Notary Public Seal Affixed.)

STATE OF FLORIDA,
County of Lee:

On this 1st day of March, A. D. 1943, before me D. T. Farabee Clerk of the Circuit Court in and for the County and State aforesaid, personally appeared A. N. Odom to me known to be one of the subscribing witnesses to the foregoing instrument, who, being duly sworn, deposes and says that D. T. Farabee Clerk of the Circuit Court in and for County and State aforesaid, to him well known, did, in his presence sign, seal and deliver the foregoing instrument [fol. 47] of writing for the purposes therein mentioned, and that Eula Hussey did in his presence witness the same, and that he and the said other witness did attest the same as witnesses in the presence of each other.

Sworn to and subscribed before me this the 1st day of March, A. D. 1943. A. N. Odom. (Seal Affixed.)

D. T. Farabee, Clerk Circuit Court Lee County.

Filed and duly recorded this the 4th day of March A. D. 1943. D. T. Farabee Clerk Circuit Court by Ruth Andersen D. C.

STATE OF FLORIDA,
County of Lee:

I, D. T. Farabee, Clerk of the Circuit Court in and for Lee County, Florida, do hereby certify that the above and foregoing, is a true and corect copy of Deed from D. T. Farabee, Clerk Circuit Court, Lee County, Florida, to W. H. Conrod, dated March 1st, 1943, as the same now appears of record in Deed Book No. 148 at page 135, among the public records of Lee County, Florida.

Witness my hand and the seal of said Court at Fort Myers, Florida, this the 30th day of November, A. D. 1945.

D. T. Farabee, Clerk Circuit Court (signed) by A. N. Odom, Deputy Clerk. (Official Seal.)

[fol. 48] STATE OF FLORIDA,
County of Manatee:

Donna Douglas came before me this day and on her oath says that she is secretary for Mr. W. B. Shelby Crichlow, attorney for the plaintiff in the above entitled cause; that she did on the 30th day of October 1946, mail a full, true and

complete copy of the amended bill of complaint and exhibit hereto attached, to each of the defendants in this suit at their respective addresses as follows:

Mr. W. H. Conrod, Alva Florida,
Mrs. Sara Louise Conrod, Alva, Florida,
Herman Leffers, Fort Myers, Florida,
Mr. Osmond Bie, Attorney for Sun Oil Co., Post Office Box 186, Tallahassee, Florida,
Henderson, Franklin, Starnes, and Holt, Collier Building, Fort Myers, Florida, Attorneys for Real Estate Exchange, Inc., a corporation,

That a copy of the above and foregoing amendments with a copy of the tax deed thereto attached, was placed in an envelope addressed respectively to each and every of the aforesaid parties; which envelope was securely sealed with full letter postage prepaid and was deposited by me in the United States Post Office, at Bradenton, Florida, in the receptacle provided in said post office for outgoing mail, which envelopes were so deposited on the 30th day of October, 1946.

(Signed) Donna Douglas.

Sworn to and subscribed before me this 30th day of October, 1946. (Signed) Clara B. Ballis, Notary Public State of Florida at large. My commission expires August 15, 1947. Bonded by American Surety Co. of N. Y. (Notarial Seal.)

[fol 49] In the Circuit Court of the Twelfth Judicial Circuit of the State of Florida in and for Lee County. In Chancery

[Title omitted]

Motion of Real Estate Exchange, Inc., to Dismiss Amended Bill of Complaint—Filed November 4, 1946

Comes now the Defendant, Real Estate Exchange, Inc., a corporation under the laws of Florida, and moves the Court to Dismiss the Bill of Complaint herein, as amended, upon the following grounds severally:

1. Said Bill of Complaint is without equity.

2. The matters alleged in said Bill of Complaint, as amended, do not entitle Plaintiff to relief.

3. The said Bill of Complaint, as amended, does not allege that the property described therein was occupied for dwelling, professional, business or agricultural purposes by the Plaintiff or his dependants at the commencement of Plaintiff's period of military service and that the said real estate is still so occupied.

4. It is apparent upon the face of the Bill of Complaint, as amended, that the property involved is wild, unimproved land and not within the purview of Acts of Congress protecting men in the military service.

Henderson, Franklin, Starnes & Holt by (signed) J. A. Franklin, Attorneys for Real Estate Exchange, Inc.

[fol. 50] IN THE CIRCUIT COURT IN AND FOR LEE COUNTY, FLORIDA, IN CHANCERY

[Title omitted]

ORDER SUSTAINING MOTION OF REAL ESTATE EXCHANGE, INC., TO DISMISS BILL OF COMPLAINT AS AMENDED—November 15, 1946

This cause coming on this day to be heard upon the Motion of Real Estate Exchange, Inc., one of the defendants herein, for an Order dismissing the Bill of Complaint, as amended, and the said Motion having been argued by counsel for the respective parties and the Court being advised in the premises, it is thereupon,

Ordered, Adjudged and Decreed that said Motion to Dismiss the Bill of Complaint, as amended, be and the same is hereby granted.

Plaintiff is given thirty days to amend as he may be advised, and Defendants are allowed twenty days after being served with any amended Bill of Complaint within which to plead thereto.

Done and Ordered at Fort Myers, Florida, this 15th day of November, A. D. 1946.

(Signed) Geo. W. Whitehurst, Circuit Judge.

[fol. 51] IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA IN AND FOR LEE COUNTY. IN CHANCERY

[Title omitted]

MOTION OF SUN OIL CO. TO DISMISS AMENDED BILL OF COMPLAINT—Filed November 15, 1946

Comes now the Defendant, Sun Oil Company, a corporation under the laws of New Jersey, and moves the Court to Dismiss the Bill of Complaint herein, as amended, upon the following grounds severally:

1. Said Bill of Complaint is without equity.

2. The matters alleged in said Bill of Complaint, as amended, do not entitle Plaintiff to relief.

3. The said Bill of Complaint, as amended, does not allege that the property described therein was occupied for dwelling, professional, business or agricultural purposes by the Plaintiff or his dependants at the commencement of Plaintiff's period of military service and that the said real estate is still so occupied.

4. It is apparent upon the face of the Bill of Complaint, as amended, that the property involved is wild, unimproved land and not within the purview of Acts of Congress protecting men in the military service.

(Signed) Osmond Bie.

[fol. 52] IN CIRCUIT COURT OF LEE COUNTY

In Circuit Court, Lee County, Florida. In Chancery

FONTAINE LEMAISTRE, Plaintiff,

v.

HERMAN LEFFERS, et als., Defendants

FINAL DECREE—December 13, 1946

This cause having come on to be heard upon motion of two of the defendants for an order to dismiss the plaintiff's bill of complaint as amended for want of equity, and the court having entered an order on the 15th day of November, 1946, granting said motions with leave to the plaintiff

to further amend his said bill of complaint within thirty days, as he may be advised, and the plaintiff having announced to the court that he refused to further amend said bill of complaint,

It Is Ordered, Adjudged and Decreed that the said bill of complaint as amended be and the same is hereby dismissed.

Done and Ordered at Bradenton, Florida, this 12th day of December, 1946.

(Signed) Geo. W. Whitehurst, Circuit Judge.

[fol. 53] In Circuit Court of Lee County

[Title omitted]

Notice of Appeal—Filed February 1, 1947.

The Plaintiff, Fontaine LeMaistre, takes and enters his appeal to the Supreme Court of Florida to review the order, judgment or decree of the Circuit Court for Lee County, Florida, in chancery, bearing date of the 12 day of December, 1946, entered in the above styled cause and recorded in the records of said Court in chancery order book 23 at page 293, and all parties to said cause are called upon to take notice of the entry of this appeal.

(Signed) W. B. Shelby Crichlow, Attorney for Fontaine LeMaistre, Plaintiff.

[fol. 54] In Circuit Court of Lee County

[Title omitted]

Assignment of Errors—Filed February 7, 1947

Comes now the Appellant, Fontaine LeMaistre, Plaintiff below, and assigns the following errors on grounds for the appeal from the judgment and decree of the court below entered in Chancery Order Book Number 23 at Page 293 of the records of said Circuit Court.

1. The Court erred in entering its order dated December 12, 1946, recorded in Chancery Order Book 23 at Page 293 in dismissing Plaintiff's Bill of Complaint as amended.

2. The Court erred in entering its order or decree dated the 15th day of November, 1946, in granting motion of the Real Estate Exchange, Incorporated, for an order dismissing the Plaintiff's Bill of Complaint as amended.

(Signed) W. B. Shelby Crichlow, Attorney for Fontaine LeMaistre, Plaintiff.

[fol. 55] AFFIDAVIT OF MAILING ASSIGNMENT OF ERRORS

I, Mary Lee Engberg, do hereby certify that I did, on the 5th day of February, 1947, register at the United States Post Office, Bradenton, Florida, a full, true and correct copy of Assignment of Errors to Osmond Bie, Post Office Box 186, Tallahassee, Florida, as Attorney for Sun Oil Company, a corporation, and another full, true and correct copy of aforesaid Assignment of Errors to Henderson, Franklin, Starnes and Holt, Collier Building, Fort Myers, Florida, as Attorneys for the Defendant, Real Estate Exchange, Incorporated, a corporation placing aforesaid papers in separate envelopes securely sealed, with full letter postage paid, properly addressed as aforesaid, and deposited so addressed, in the United States Post Office at Bradenton, Florida.

(Signed) Mary Lee Engberg.

Sworn and subscribed before me this 5th day of February, 1946. (Signed) Clara B. Balis, Notary Public, State of Florida at Large. My Commission expires August 15, 1947. Bonded by American Surety Co. of N. Y. (N. P. Seal Affixed.)

[fol. 56] IN CIRCUIT COURT OF LEE COUNTY

[Title omitted]

WRITTEN DIRECTIONS TO THE CLERK FOR MAKING UP RECORD —Filed February 7, 1947

The Clerk of the Circuit Court in and for Lee County, Florida, in chancery, will please make up and certify a transcript of record reciting therein the following papers and documents appearing in the above styled cause, to wit:

1. The Bill of Complaint filed 25th day of March, 1946.
2. Summons in Chancery issued March 25, 1946.

3. Lis Pendens filed and recorded March 25, 1946.

4. A receipt of Clerk of Circuit Court for deposit of $163.24 in the Registry of the Court by Plaintiff, filed March 25, 1946.

5. Notice of application for injunction filed March 25, 1946.

[fol. 57] 6. Order granting injunction filed March 30, 1946.

7. Summons in Chancery issued to Defendant, Sun Oil Company, 6th day of April, 1946.

8. Return of Sheriff on Summons issued March 25, 1946, filed April 30, 1946.

9. Sheriff's return on Summons issued April 6, 1946, filed April 30, 1946.

10. Appearance entered of Sun Oil Company, filed May 4, 1946.

11. Praecipe for Decree Pro Confesso filed May 6, 1946.

11a Certified Copy Decree Pro Confesso filed May 7, 1946.

12. Praecipe for Decree Pro Confesso filed June 3, 1946.

13. Motion to Make More Particular filed June 3, 1946.

14. Motion to Dismiss Bill of Complaint filed June 3, 1946.

15. Amendments to Bill of Complaint filed June 15, 1946.

16. Amendments to Lis Pendens filed and recorded June 15, 1946.

17. Praecpe for Summons filed 15, 1946.

18. Summons in Chancery issued June 15, 1946, with the Sheriff's return noted thereon, filed July 1, 1946.

19. Proof of Notice of Amendment to the Bill of Complaint to the Defendants, Herman Leffers, W. H. Conrod and Sara Louise Conrod, filed June 21, 1946.

20. Amendment of Lis Pendens filed and recorded the 21st day of June, 1946.

21. Answer of Defendant, D. T. Farabee, Clerk, filed 26th day of June, 1946.

22. Proof of Notice of Amendments to the Bill of Complaint to Herman Leffers, W. H. Conrod and Sara Louise Conrod, filed July 1, 1946.

[fol. 58] 23. Setting Down for Hearing Motion of the Sun Oil Company to Dismiss, filed July 1, 1946.

24. Setting Down for Hearing Motion of the Sun Oil Company to Make More Particular, filed July 1, 1946.

25. Praecipe for Decree Pro Confesso, July 1, 1946.

26. Praecipe for Decree Pro Confesso against Herman Leffers, W. H. Conrod and Sara Louise Conrod, filed July 1, 1946.

27. Praecipe for Decree Pro Confesso against D. T. Farabee as Clerk of Circuit Court, and Real Estate Exchange, Inc., filed July 1, 1946.

28. Appearance of Defendant, Real Estate Exchange, Inc., filed July 1, 1946.

29. Stipulation filed July 22, 1946.

30. Motion to Dismiss Bill of Complaint by Real Estate Exchange, Inc., filed July 26, 1946.

31. Amendments to Bill of Complaint and Proof of Mailing Copies of Amendments to each Defendant, filed November 1, 1946.

32. Motion to Dismiss Amended Bill of Complaint by Real Estate Exchange, Inc., filed November 4, 1946.

33. Order granting Motion to Dismiss Bill of Complaint as Amended, filed and recorded November 15, 1946.

34. Motion of Sun Oil Company to Dismiss Amended Bill of Complaint, filed November 15, 1946.

35. Final Decree filed and recorded the 13th day of December, 1946, dismissing Bill of Complaint as Amended.

36. Notice of Appeal to the Supreme Court of Florida, filed February 1, 1947.

37. Assignment of Errors by the Appellant-Plaintiff, below.

38. Written Directions to the Clerk for making up transcript.

[fol. 59] 39. Proof of Service of Copy of Written Directions to Clerk on Defendants, Real Estate Exchange, Inc., a corporation, and Sun Oil Company, a corporation.

40. Proof of Service of Copy of Assignment of Errors on Defendants Real Estate Exchange, Inc., a corporation and Sun Oil Company, a corporation.

The Clerk is directed to omit all other papers filed in this cause excepting such other papers as may be designated by the Appellees or some of them, Defendants below. The Clerk shall conform to the Rules of the Supreme Court in making up this transcript of the record in this cause. The aforesaid transcript shall be prepared by the Attorney for the Plaintiff and certified by the Clerk. The Appellees shall, within ten days of service of a copy of the Assign-

ment of Errors and these written directions to the Clerk, file such cross assignment of errors and additional written directions to the Clerk as they may be advised.

(Signed) W. B. Shelby Crichlow, Attorney for Fontaine LeMaistre, Plaintiff-Appellant.

[fol. 60] AFFIDAVIT OF MAILING WRITTEN DIRECTIONS TO THE CLERK

I, Mary Lee Engberg, do hereby certify that I did, on the 5th day of February, 1947, register at the United States Post Office, Bradenton, Florida, a full, true and correct copy of Written Directions to the Clerk, to Osmond Bie, Post Office Box 186, Tallahassee, Florida, as Attorney for Sun Oil Company, a corporation, and another full, true and correct copy of aforesaid Written Directions to the Clerk, to Henderson, Franklin, Starnes and Holt, Collier Building, Fort Myers, Florida, as Attorneys for the Defendant, Real Estate Exchange, Incorporated, a corporation, placing aforesaid papers in separate envelopes securely sealed, with full letter postage paid, properly addressed as aforesaid, and deposited so addressed, in the United States Post Office at Bradenton, Florida.

(signed) Mary Lee Engberg.

Sworn and subscribed before me this 5th day of February, 1946.

(signed) Clara B. Balis, Notary Public, State of Florida at Large. My Commission expires August 15, 1947. (N. P. Seal Affixed) Bonded by American Surety Co. of N. Y.

[fol. 61] IN CIRCUIT COURT OF LEE COUNTY

(Title Omitted)

WRITTEN DIRECTIONS TO THE CLERK BY APPELLEE, SUN OIL COMPANY—Filed Feb. 13, 1947

The Clerk of Circuit Court in and for Lee County, Florida in Chancery, will please include in the Transcript of Record on appeal the following matter:

1. Certificate of the Clerk showing whether or not the Plaintiff in the suit below, Appellant here, has paid all costs which have accrued, in or about the suit, up to the time this appeal was taken.

2. These Directions.

(signed) Osmond Bie, Attorney for Sun Oil Company.

[fol. 62] PROOF OF SERVICE OF NOTICE

I, Margo Brown, do hereby certify that I did, on the 11th day of February, 1947, register at the United States Post Office, Tallahassee, Florida, a full, true and correct copy of the above written Directions to the Clerk, to W. B. Shelby Crichlow, Attorney-at-law, Bradenton, Florida, as Attorney for the Appellant, Fontaine LeMaistre, by depositing the same in the United States mail in an envelope securely sealed, addressed as above, and with sufficient postage thereon to insure delivery.

(Signed) Margo Brown.

Sworn and subscribed before me this 11th day of February, 1947.

(signed) Marie H. Bower, Notary Public-State Florida at Large. My Commission expires Nov. 16, 1947 (Notarial Seal)

[fols. 63-64] Clerk's Certificate to Costs and to foregoing transcript omitted in printing.

[fol. 65] IN THE SUPREME COURT OF FLORIDA

FONTAINE LEMAITRE, Appellant,

v.

HERMAN LEFFERS, W. H. CONROD and SARA LOUISE CONROD, his wife, the Sun Oil Company, a corporation under the laws of the State of New Jersey, D. T. Farabee as Clerk of the Circuit Court of Lee County, Florida, and Real Estate Exchange, Incorporated, a corporation under the laws of the State of Florida, Appellees.

PETITION FOR AND ORDER EXTENDING TIME FOR FILING TRANSCRIPT OF RECORD IN SUPREME COURT—Filed March 11, 1947

To the Honorable W. T. Harrison, one of the Judges of the Circuit Court of Lee County, Florida, in Chancery:

Comes now the Appellant, Fontaine LeMaitre, in the above entitled cause, and petitions the Court for the entry of an order without notice extending the time for filing the transcript of record from the Circuit Court of Lee County, Florida, in the Supreme Court of Florida from and after the 12th day of March, 1947 to and including the 22nd day of March, 1947, agreeable to Rule 12(b) of said Supreme Court. The appeal herein was filed in the office of the Clerk of the Circuit Court of Lee County, Florida, on the first day of February, 1947.

(signed by) W. B. Shelby Crichlow, Attorney for Appellant.

[fol. 66] ORDER EXTENDING TIME OF FILING TRANSCRIPT TO AND INCLUDING MARCH 22ND, 1947

The above petition coming on to be heard before me this day, it is ordered that Appellant is allowed an extension of ten days from and after the 12th day of March, 1947, to and including the 22nd day of March, 1947, within which to file the transcript of record on appeal in this cause in the Supreme Court of Florida.

Done and ordered at Bradenton, Florida, this 10th day of March, 1947.

(Signed) By W. T. Harrison, Circuit Judge.

State of Florida, County of Manatee:

I, W. T. Harrison, one of the Judges of the Circuit Court in and for Lee County, Florida, in Chancery, do hereby certify that I did on the 10th day of March, 1947, enter the above and foregoing order agreeable to Rule 12(b) of the Supreme Court of Florida, extending the time to March 22nd, 1947, for filing the transcript of record in said Cause in said Supreme Court.

In Testimony Whereof I have hereunto set my hand at Bradenton, Florida, this 10th day of March, 1947.

(Signed) By W. T. Harrison, Circuit Judge.

[fol. 67] Affidavit

STATE OF FLORIDA,
County of Manatee:

I, Mary Lee Engberg, do hereby certify that I did on this 20th day of March, 1947, deposit in the United States Post Office in the receptacle for outgoing mail, a full, true and complete copy of the foregoing transcript of record in the case of LeMaistre v. Leffers, Etals, in an envelope securely sealed and with full letter postage prepaid, addressed to: Osmond Bie, Post Office Box 186, Tallahassee, Florida, as Attorney for Sun Oil Company, and

I further certify that I, on this 20th day of March, 1947, deposited in the United States Post Office in the receptacle for outgoing mail, a full, true and complete copy of the foregoing transcript of record in the case of LeMaistre v. Leffers, Etals, in an envelope securely sealed and with full letter postage prepaid, addressed to: Henderson, Franklin, Starnes and Holt, Collier Building, Fort Myers, Florida, as Attorneys for Real Estate Exchange, Incorporated.

(S) Mary Lee Engberg.

Sworn to and subscribed before me this 20th day of March, 1947. Clara B. Balis, Notary Public. My commission expires August 15, 1947. (N. P. Seal)

[fol. 68] IN THE SUPREME COURT OF FLORIDA

FONTAINE LEMAISTRE, Appellant,

vs.

HERMAN LEFFERS, et als., Appellees

OPINION—Filed June 24, 1947

An appeal from the Circuit Court for Lee County, George W. Whitehurst, Judge.

PER CURIAM:

The record and the briefs in this cause have been examined and the judgment appealed from is affirmed on authority of DeLoach et al vs. Calihan, decided March 21, 1947.

Thomas, C. J., Burford, Adams, and Barnes, J. J., concur.

[fol. 69] IN SUPREME COURT OF FLORIDA

MANDATE FROM SUPREME COURT—July 11, 1947

To the Honorable, the Judge of the Circuit Court for the Twelfth Judicial Circuit of Florida, Greeting:

Whereas, lately in the Circuit Court of the Twelfth Judicial Circuit of Florida, in and for the County of Lee in a cause wherein Fontaine LeMaistre was plaintiff aand Herman Leffers and Estelle Leffers, his wife, W. H. Conrod and Sara Louise Conrod, his wife, and the Sun Oil Company, a corporation under the laws of the State of New Jersey, were defendants, the Decree of said Circuit Court was rendered Dec. 12, 1946 as by the inspection of the transcript of the record of the said Circuit Court which was brought into the Supreme Court of the State of Florida, by virtue of an appeal agreeably to the laws of said State in such case made and provided, fully and at large appears:

And Whereas, at the June Term of said Supreme Court holden at Tallahassee, A. D. 1947, the said cause came on to be heard before the said Supreme Court on the said transcript of the record and was argued by counsel, in consideration whereof, on the 24th day of June A. D. 1947 it was considered by said Supreme Court that the said Decree of the Circuit Court be and the same is hereby affirmed: it is

further ordered by the Court that the Appellees do have and recover of and from the Appellant their costs by them in this behalf expended, which costs are taxed at the sum of —— Dollars; therefore

[fol. 70] You Are Hereby Commanded, that such further proceedings be had in said cause as according to right, justice, the judgment of said Supreme Court, and the Laws of the State of Florida, ought to be had, the said Decree of the Circuit Court notwithstanding.

Witness, The Honorable Elwyn Thomas, Chief Justice of said Supreme Court, and the seal of said Court at Tallahassee, this 11th day of July 1947.

Guyte P. McCord, Clerk, Supreme Court of Florida. (Seal)

IN THE SUPREME COURT OF FLORIDA, JANUARY TERM, A. D. 1947

Division A

BARNEY H. DELOACH and A. K. HAWKINS, Petitioners,

vs.

LYNN C. CALIHAN, Respondent

OPINION IN CASE CITED IN OPINION IN CASE AT BAR

Opinion filed March 21, 1947.

A Writ of Certiorari to the Circuit Court for Manatee County, W. T. Harrison, Judge.

Knowles & Kirk and Henderson, Franklin, Starnes & Holt, for Petitioners.

Robert E. Wills, for Respondent.

TERRELL, J.

On May 14, 1938, Lynn C. Calihan purchased lot 8 Block C of High School Addition to the City of Manatee, Florida. He did not pay the taxes on this property, so tax certificate No. 1308 was issued against it July 7, 1941. Calihan en- [fol. 71] listed in the Armed Forces November 17, 1943. January 3, 1944, Tax deed was issued to Atlantic Municipal Corporation on the basis of said certificate. April 2, 1945, Atlantic Municipal Corporation conveyed the said lot to

A. K. Hawkins, who in turn, five days later, conveyed it to Barney H. DeLoach.

Calihan was discharged from the Armed Forces February 3, 1946, and on May 2, following, instituted this suit in chancery alleging that on account of being in the Armed services "at the time of the application for and issuance of such purported tax deed and other purported deeds heretofore set out, the said purported tax deed and other purported deeds are voidable and complainant is entitled to their cancellation." The bill prayed for cancellation of the deeds and an accounting for rents received during the occupancy of the lands. A motion to dismiss was denied and that order is here for review on certiorari.

The chancellor denied the motion to dismiss on authority of Section 525, Soldiers' and Sailors' Civil Relief Act, the pertinent part of which is as follows:

> "nor shall any part of such period which occurs after the date of the enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 be included in the computing of any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax, or assessment."

The chancellor supported his order overruling the motion to dismiss by Illinois National Bank of Springfield vs. Gwinn, — Ill. —, 61 N. E. (2) 249.

Petitioners counter with the contention that respondent has not brought himself within the protection of Section 560, Soldiers' and Sailors' Civil Relief Act, the pertinent part of which is as follows:

> [fol. 72] "(1) The provisions of this section shall apply when any taxes or assessments, whether general or special (other than taxes on income), whether falling due prior to or during the period of military service, in respect of personal property, money, or credits, or real property owned and occupied, for dwelling, professional, business, or agricultural purposes by a person in military service or his dependents at the commencement of his period of military service and still so occupied by his dependents or employees are not paid."

In the Illinois case cited and relied on by the chancellor, the Court held that the provisions of Section 525, Soldiers' and Sailors' Civil Relief Act, were written into the State statute and extended the period for redemption to those in the Armed services so long as they were in the service.

Petitioners contend on the contrary that the law in effect at the time the tax certificate was issued controls the issuance of the tax deed; that the Soldiers' and Sailors' Civil Relief Act was passed after the issuance of the tax certificate in question and should not be construed as modifying the certificate holders contract under the law. It is also contended that if there is conflict between Sections 525 and 560, Soldiers' and Sailors' Civil Relief Act, the language of the latter section must prevail and be given effect as the will of the legislature.

In our view, Section 560, Soldiers' and Sailors' Civil Relief Act defines the standard by which a soldier or sailor may know the class of property on which he is granted indulgence thereunder, and section 525 puts him on notice of the period of indulgence. As to real estate, the indulgence is limited to that "owned and occupied for dwelling, professional, business or agricultural purposes by a person in military service or his dependents at the commencement of his period of military service and still so occupied by his dependents or employees are not paid."

[fol. 73] Since these are the conditions under which one may avail himself of the provisions of the Soldiers' and Sailors' Civil Relief Act, we think it necessary that respondent allege facts in his bill of complaint to bring him within the terms of the statute. Since the Act covers taxes "falling due prior to or during the period of military service" it must have the effect of extending the period of redemption for all such lands as are brought within its terms.

If respondent alleges facts sufficient to bring him within the terms of the act he may redeem as the State Statute for redemption provides. In this case it appears that Caliban entered the Armed services long after the tax certificate was issued. Is that material?

If he cannot allege facts to bring him within the terms of the Soldiers' and Sailors' Civil Relief Act, then he is entitled to no protection under it. We think he failed to make a sufficient showing of the character of the use and occupancy of the property as defined in Sec. 560 supra. Holding

this view it becomes unnecessary to discuss other questions raised. It is settled law in this State that when one brings himself within the terms of the Soldiers' and Sailors' Civil Relief Act it should be liberally construed in his favor. Shayne v. Burke, decided October 22, 1946.

The certiorari is granted and the order denying the motion to dismiss is quashed with permission to respondent to amend his bill of complaint.

Thomas, C. J., Chapman, J. and McNeill, Associate Justice concur.

[fol. 74] IN SUPREME COURT OF FLORIDA

[Title omitted]

DIRECTIONS TO CLERK OF SUPREME COURT OF FLORIDA FOR THE PREPARATION OF TRANSCRIPT OF RECORD AND OTHER PAPERS IN THE CASE OF FONTAINE LEMAISTRE, APPELLANT, V. HERMAN LEFFERS, ET ALS., APPELLEES, LATELY PENDING IN THE SUPREME COURT OF THE STATE OF FLORIDA, JUNE TERM, A. D., 1947, APPEALED FROM CIRCUIT COURT FOR LEE COUNTY, FLORIDA, GEORGE W. WHITEHURST, JUDGE

To the Honorable Guyte P. McCord, Clerk of the Supreme Court of Florida:

Kindly forthwith prepare, certify and deliver, on or before the 20th day of September, 1947, to the Honorable Charles Elwood Cropley, Clerk of the Supreme Court of the United States, Supreme Court Building, Washington, D. C., the following papers on file in the office of the Clerk of the Supreme Court of Florida, under the hand and seal of said court, to wit:

1. A full, true and complete transcript of the record on file in said Supreme Court of Florida, as certified by Clerk of Circuit Court for Lee County, Florida.

2. Opinion of the Supreme Court of Florida filed in this cause on the 24th day of June, 1947.

3. Mandate issued on the 11th day of July, 1947, reciting that no petition for rehearing was requested by the appellant within the time required by law.

4. Copy of the opinion above referred to in the case of DeLoach v. Calihan, decided March 21, 1947.

You will also kindly furnish me a certificate of the mailing of said certified papers as above requested.

W. B. Shelby Crichlow, Bradenton, Florida, Attorney for Petitioner, Fontaine LeMaistre being Attorney for Appellant in Court Below.

[fol. 75] STATE OF FLORIDA,
County of Manatee:

Mary Lee Engberg came before me this day and on her oath says that she did on the 12th day of September, 1947, mail a full, true and correct copy of the above and foregoing directions to each of the following two firms of attorneys, respectively:

1. Henderson, Franklin, Starnes and Holt, and J. A. Franklin, Attorneys-at-Law, Comer Building, Fort Myers, Florida, as Attorneys for Real Estate Exchange, Incorporated;

2. Osmond Bie, Box 186, Tallahassee, Florida, as Attorney for Sun Oil Company;

by placing a copy of said notice in each of two envelopes, addressed respectively to the above named attorneys, with full letter postage prepaid, and deposited said envelopes so addressed, stamped, and securely sealed, in the receptacle provided for outgoing mail in the United States Post Office at Bradenton, Florida.

Mary Lee Engberg.

Sworn to and subscribed before me this 12th day of September, 1947. Frances Murphy (Hullinger), Notary Public. My commission expires February 3, 1950. (Notarial Seal.)

[fol. 76] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 77] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed November 10, 1947

The petition herein for a writ of certiorari to the Supreme Court of the State of Florida is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.